

Summary

Chapter 12, Title 42

United States Code Annotated

Compensation for Injury, Death or Detention of Employees of Contractors  
With the United States Outside the United States

1. In cases of injury or death resulting from injury:

a. To any person employed by a contractor (Tab A) with the United States if such employee is engaged in a type of employment as is covered by the "Longshoreman's and Harbour Workers' Compensation Act" (Title 4281651 USCA) (Tab B) and no compensation is payable with respect to injury or death under such employment.

b. To any person engaged by the United States under a contract for his personal services outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands; or

c. To any person employed as a civilian employee of a post exchange or ship-service store outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands.

and such injury proximately results from a war-risk hazard (Tab A), whether or not the person was then actually engaged in the course of his employment, the provision of the Federal Employees' Compensation Act (Title 5 751-756, 757-781, 783-791 and 793 USCA, with some modification) will apply to the same extent as if the person so employed was a civil employee of the United States and was injured while in performance of his duty and any compensation due would be paid from the Compensation fund.

2. Any person specified in paragraph 1 above who--

a. Is found to be missing from his place of employment, whether or not such person then actually was engaged in the course of his employment, under circumstances, supporting an inference that his absence is due to the belligerent action of any enemy; or

b. Is known to have been taken by an enemy as a prisoner, hostage, or otherwise, or

c. Is not returned to his home or to the place where he was employed by reason of the failure of the United States or its contractor to furnish transportation.

until such time as he is returned to his home, to the place of his employment, or is able to be returned to the jurisdiction of the United States, shall, under such regulations as the Secretary of Labor may present, be regarded solely for the purposes of this subsection as totally disabled and such benefits as are provided for such disability shall be credited to his account and be payable to him for the period of such absence or until his death is in fact established or can be legally presumed to have occurred. During the period of absence the Secretary may:

a. Disburse a part of the compensation accruing for such total disability to dependents in U. S. territories, possessions, Guantanamo, Canal Zone and Phillippines in equal monthly payments; the balance payable to the individual upon his return from such absence unless such person or dependent is receiving or is entitled to receive any other payment from the United States either directly or indirectly because of such absence.

b. Waive recovery of money erroneously paid under these circumstances whenever he finds that such recovery would be impractical or would cause hardship to the beneficiary affected.

c. Upon application by such person, or someone on his behalf, and under such regulations as he may prescribe, furnish transportation or the cost thereof (including reimbursement) to any such person from the point where his release from custody by the enemy is affected, to his home, place of employment or other place within the jurisdiction of the United States.

d. In the case of death of any such person, if his death occurred away from his home the body of such person shall, at the discretion of the Secretary or if so desired the next of kin, near relative, etc., be embalmed and transported in a hermetically sealed casket to the home of the person or place designated by the next of kin or near relative--no expense shall be incurred by the Secretary in any case where death takes place after repatriation unless such death proximately results from war-risk hazard.

e. Expenses of embalming, sealed container, transportation of the body and attendants, (if required) as approved by the Secretary, shall be paid from the compensation fund.

f. Compensation for permanent total or permanent partial disability or for death payable under this section of the law to persons who are not citizens of the United States and who are not residents of the United States or Canada shall be in the same amount as provided for residents except for the limitation of benefits to the surviving wife or husband, child or children, and in their absence surviving parent who has been wholly or partially supported by the person for a period of a year before the death. The Secretary may at his option commute all future payments to these persons by paying them one half of the commuted amount of such future installments of compensation as he has determined.

g. The foregoing provisions do not apply in the case of a person:

(1) Whose residence is at or in the vicinity of the place of his employment,

(2) Who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment. (Title 42 1701 USCA)

3. Reimbursement. Where any employer or his insurance carrier or compensation fund pays or is required to pay benefits to a person or a fund on account of injury or death, if such injury or death arose from a war-risk hazard which is payable under any workman's compensation law of the United States, State, territories, possession of the United States, or other jurisdiction, or any person by reason of an agreement and made in accordance with a contract between the contractor and the United States, the claim for reimbursement may be filed with the Secretary. No reimbursement will be made in any case in which the Secretary finds that the benefits paid were on account of an injury, detention or death which arose from a war-risk hazard for which a premium was charged. (Title 42 1704 USCA)

4. Receipt of Workmen's Compensation benefits. In the event an individual has received or is receiving workmen's compensation benefits for the same injury under the law of any state, territory, possession, foreign country or other jurisdiction, the Secretary has a lien and a right of recovery to the extent of the payments made. Where a national of a foreign government is entitled to benefits on account of injury or death resulting from a war-risk hazard, under the laws of his native country or any other foreign country, the benefit herein outlined shall not apply. (Title 42 1705 USCA)

5. Administration. The provision of this section, rules and regulations, are accomplished by the Secretary of Labor. However, he may enter into agreements with other agencies of the U. S. , state, territory, possession, other public agencies and private persons, agencies or institutions within or without the United States to utilize their services and facilities, compensating them for such use. The Secretary may delegate to the above such of his powers and duties as he finds necessary for carrying out the purposes of this section. (Title 42 1706 USCA)

6. Disqualification from benefits. No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its allies, shall be entitled to compensation or other benefits.

TAB A

Definitions

Public work

Any fixed improvement or project involving construction, alteration, removal or repair for public use of U. S. or its allies included but not limited to projects in connection with the war effort, dredging, harbour improvements, dams, roadways and housing as well as preparatory and ancillary work in connection therewith. (Title 42 1651 USCA)

Contractor

Any individual, partnership, corporation or association and includes any trustee, receiver, assignee, successor or personal representative thereof. (Title 42 1651 USCA)

War-risk Hazard

Means any hazard arising after December 6, 1941, and prior to July 1, 1958 from--

(1) The discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by an enemy or in combatting an attack or an imagined attack by an enemy or in combatting an attack by an enemy; or

(2) Action of the enemy, including rebellion or insurrection against the U. S. or any of its allies; or

(3) The discharge or explosion of munitions intended for use in connection with the national war effort (except with respect to any employee of a manufacturer or processor of munitions during the manufacture, or processing thereof, or while stored on the premises of the manufacturer or processor); or

(4) The collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peace-time aids to navigation, or

(5) The operation of vessels or aircraft in a zone of hostilities or engaged in war activities. (Title 42 1711 USCA)

TAB B

1651 Compensation Authorized - Places of Employment

Except as herein modified, the provisions of the Longshoremen's and Harbour Workers' Compensation Act, as amended, shall apply in respect to the injury or death of any employee engaged in any employment--

(1) At any military, air or naval base acquired by the United States from any foreign government; or

(2) Upon any lands occupied or used by the United States for military or naval purposes in any territory or possession; or

(3) Upon any public work (Tab A) any territory or possession outside continental United States if employee is engaged in employment at such place under the contract of a contractor with the United States. (Exception - Except employees of contractor or sub-contractor who is engaged exclusively in furnishing materials or supplies under his contract.)

(4) Under a contract entered into with the United States or any executive department, independent establishment or Agency thereof, or any sub-contractor, or subordinate contractor, where such contract is to be performed outside the continental United States and places not within the areas described above--for the purposes of engaging in public work.

irrespective of the place where the injury or death occurs and shall include any injury or death occurring to any such employee during transportation to or from his place of employment, where the employer or the United States provides the transportation or cost of transportation. (Title 42 USCA)

\* \* \* \* \*